

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CRYSTALLEX INTERNATIONAL CORPORATION, §
Plaintiff, §
v. § C.A. No. 1:17-mc-00151-LPS
BOLIVARIAN REPUBLIC OF §
VENEZUELA, § PUBLIC REDACTED VERSION
Defendant. § DATED: AUGUST 15, 2023

MEMORANDUM OF LAW IN SUPPORT OF SEALING
PART'S OF BANCO SAN JUAN INTERNACIONAL INC.'S
ATTACHED JUDGMENT STATEMENT

Pursuant to this Court's Order of August 8, 2023, D.I. 654, Banco San Juan Internacional Inc. ("BSJI") files this Memorandum of Law supporting the continued sealing of parts of BSJI's "Attached Judgment Statement" ("Statement"). BSJI will file a redacted, publicly available version of its Statement no later than August 16, 2023.

BSJI's proposed redactions are minimal and narrow, as they seek to redact only three sentences from its Statement. The redacted information implicates highly sensitive and confidential information concerning BSJI's efforts to collect on judgments against Petróleos de Venezuela S.A. ("PDVSA") and PDVSA Petróleo, S.A. ("PPSA") rendered by The High Court of Justice, Business and Property Courts of England and Wales, Commercial Court (QBD). BSJI included this information in its Statement because, pursuant to the Special Master's request, this Court ordered that judgment statements include "a description of any collection efforts." See D.I. 652, D.I. 654.

Courts have considerable discretion to seal documents upon a showing of good cause, allowing this Court to approve the continued sealing of a few sentences in BSJI's Statement. See *In re Avandia Mktg., Sales Practices, and Products Liability Litigation*, 924 F.3d 662, 670-71 (3d

Cir. 2019); FED R. CIV. P. 26(c)(1)(G) (“The court may, for *good cause*, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including...requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.”). Courts exercise their discretion in light of the relevant facts and circumstances. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 599 (1978). When deciding whether to limit public access to judicial documents, a court must weigh the presumption of access with competing interests, including the privacy interests of those who wish to shield certain information from the public. *Id.* at 671-72. Thus, “the common law right of access is ‘not absolute.’” *Id.* at 672 (quoting *Bank of America Nat. Trust and Sav. Ass’n v. Hotel Rittenhouse Assocs.*, 800 F.2d 339, 344 (3d Cir. 1986)).

Here, the circumstances require BSJI to provide information about its collection efforts given the Special Master’s request and the Court’s subsequent Order. D.I. 652, D.I. 654. This information implicates BSJI’s legal and business strategies and decisions, which BSJI should be allowed to shield from the public which has no interest in the specific details of BSJI’s collection efforts. *See e.g., Greentech, Inc. v. Amgen*, 2020 WL 9432700 at *4 (D. Del. Sept. 2, 2020) (“As the Supreme Court observed in *Nixon v. Warner Communications*, courts have refused to permit their files to serve as sources of business information that might harm a litigant’s competitive standing.”) (internal quotes omitted); *Kaleo, Inc. v. Adamis Pharma. Corp.*, 2019 WL 11680196 at *2 (D. Del. July 16, 2019).

BSJI respectfully submits that good cause exists to keep under seal a few sentences in BSJI’s Statement. As ordered by the Court, BSJI will file a public version of the Statement within two (2) business days.

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August 14, 2023

PUBLIC REDACTED VERSION
Dated: August 15, 2023

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